

HE CHENG

robin.cheng@glacier.law

TAO LIU

tao.liu@glacier.law

WEI YANG

wei.yang@glacier.law

GLACIER LAW PLLC

745 5TH AVENUE, SUITE 500

NEW YORK, NY 10151

TEL: 415-549-6699

SHENGMAO MU

mousamuel@whitewoodlaw.com

XUANYE WANG

evelynwang@whitewoodlaw.com

WHITEWOOD LAW PLLC

57 WEST 57TH STREET, 3RD AND

4TH FLOORS

MANHATTAN, NY 10019

TEL: 917-858-8018

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MATTEL, INC.,

Plaintiff

v.

2012SHININGROOM2012, ALEXSTORE888,
ALIYA_SMILE, BIGMOUTH333, CCS_ONLINE999,
CONNIE_MONICA, EBBPOP, EJEWELRYCODE,
FANHUASIJIN02, FASHIONJEWELRY20136,
FENGHE2012, FLYFLOWER88, FUTALL,
GLORYROAD2015, GO-GIFT1225, GYL09047,
HANJINGYUHUAONE, HERPOP, HG-TECH-LTD,
HMZSLUCK, ILANTE, IN-STYLE1820, JIALU-88,
KEEPUPPOP, KTMAIL, KZYU_17, LAQ01018,
LUCKY992016, MUSENWAIMAO, NEWANG,
OVEPOP2009, POPULAR888, PRCBEY,
SANTAFE2016, SUMMER*2010*,URCHOICE-LTD,
XIAOTWAN_CBQZZ, XYWL722, YUMISELL8,
YUNWAWA527 and ZHANYTINO,

Defendants

18-cv-11648 (PKC)

[PROPOSED] JUDGMENT

This matter comes before the Court following the July 21, 2020 Bench Trial (“Bench Trial”); The Court, having considered the arguments raised by Plaintiff and the Wang Defendants at the Bench Trial, along with the pleadings and papers filed in this action;

The Court having entered judgment in accordance with Defendant’s Findings of Fact and Conclusions of Law filed, finding that the Plaintiff failed to meet its burden of proof as to its copyright infringement claim pursuant to 17 U.S. Code § 501; that Plaintiff has no valid claim against the three (3) Defendants go-gift1225, prcbey, ebbpop for copyright infringement; and that Plaintiff failed to provide sufficient evidence to establish a prima facie case of copyright infringement against Wang Defendants.

Plaintiff also failed to meet its burden of proof as to its trademark counterfeiting and infringement claim pursuant to 15 U.S.C. §§ 1114(1) and 15 U.S.C. § 1125(a). Plaintiff failed to meet its burden of showing by a preponderance of evidence that Wang Defendants’ products are, in fact, counterfeit. Further, Plaintiff has not stated a valid trademark infringement claim against the six Defendants lucky992016, popular88, ilante, go-gift1225, prcbey, ebbpop. Lastly, aside from showing that the Barbie Mark is a popular brand, Plaintiff provided no other evidence to support that “the use of the mark is likely to cause consumers confusion.”

The Lanham Act allows a prevailing party to recover attorney’s fee in “exceptional cases.” 15 U.S.C. § 1117(a). Plaintiff knew that none of its copyrighted works or trademarks were applicable to a number of Wang Defendants’ products (as shown in Trial Exhibit PX E), but knowingly and willingly ignored it. Plaintiff exercised judgement in bad faith by pursuing its meritless action against Wang Defendants all the way through trial.

Accordingly, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows: judgment is entered in this case in favor of Wang Defendants, Plaintiff receive nothing, and Wang Defendants recover costs and attorneys’ fees from Plaintiff.

SO ORDERED.

SIGNED this _____ day of _____, 2020, at _____ .m.

HON. P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE